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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2410 of 2007

Petitioners

1. Jeet Ram S/o Bhadru Ram, aged 46 years, Working as Cook, R/o Begta, Tehsil & Distt. Jashpur (C.G.)
2. Permeshwar Ram Chouhan S/o Ramcharan, aged 47 years, Working as Chowkidar, R/o Baasbahar Tehsil – Bagicha, Distt. Jashpur (C.G.)
3. Amarlal Ram S/o Aghanu Ram, aged 45 years, Working as Chowkidar, R/o Naktimunda, Tehsil-Bagicha, Distt. Jashpur (C.G.)
4. Budh Sai S/o Patiram Sai, Aged 34 years, Working as Waterman, R/o Kharpani, Tehsil-Bagicha, Distt. Jashpur (C.G.)
5. Ram Pyare Ram S/o Boga Ram Aged 36 years, Working as Peon, R/o Sonna, Patkona, Tehsil-Bagicha, Distt. Jashpur (C.G.)

Versus

Respondents

1. State of Chhattisgarh, Through the Secretary, Department of Tribal Welfare, D.K.S. Bhawan, Mantralaya, Raipur (Chhattisgarh)
2. Collector, Aadim Jati Kalyan Branch, Jashpur, Tehsil & Distt. Jashpur (C.G.)
3. Assistant Commissioner, Aadivasi – Vikas Tribal, Jashpur.(C.G.) The Then Raigarh (C.G.)
4. Commissioner, Aadivasi Vikas Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Rahul Jha, Advocate for the Petitioners.

Shri Ajay Dwivedi, Panel Lawyer for the respondents.

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ORDER

(Passed on this 19th day of April, 2007)

1. By this petition, the petitioners have challenged the validity of the order dated 4.10.1997 (Annexure P/4) passed by the Additional Collector, Raigarh, whereunder the grant of regular pay scales to the petitioners were withdrawn and the petitioners were paid thereafter daily wages as per Collector's rate.

2. The indisputable facts in nutshell, are that initially the petitioner No. 1 was engaged on daily wages on the post of Cook vide order dated 2.2.89, the petitioner No. 2 and 3 were engaged on daily wages on the post of Chowkidar vide order dated 27.7.91, the petitioner No. 4 was engaged on daily wages on the post of Waterman vide order dated 1.7.92 and the petitioner No. 5 was engaged on daily wages on the post of Cook vide order dated 2.2.89 and thereafter, the petitioner no. 1 was granted regular pay scale vide order dated 5.2.92, the petitioner No. 2 was granted regular pay scale vide order dated 2.8.94, the petitioner No. 3 was granted regular pay scale vide order dated 1.8.94, the petitioner No. 4 was granted regular pay scale vide order dated 1.7.95 and the petitioner No. 5 was granted regular pay scale vide order dated 28.9.92.

3. Learned counsel appearing for the petitioners would contend that once a right of a particular pay scale has been granted to the petitioners in accordance with law, the same cannot be withdrawn, without affording an opportunity of hearing. The petitioners have acquired the right to the fixed monthly pay scale as their services were regularized. Thus, the impugned order is bad and deserves to be quashed.

4. Learned counsel for the petitioners heavily relied on a judgment and order dated 18th January, 2006 passed by this Court in Writ Petition

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No. 2125/2002 (**Sant Kumar & others Vs. State of Chhattisgarh & others**), wherein this Court while considering the identical issue of reducing the regular pay scale granted earlier, held that the order reducing the pay scale of an employee behind their back, without following any procedure known to law is punitive and visits with civil consequence. The same cannot be passed without giving concerned employee, an opportunity of hearing.

5. Learned counsel for the petitioner further submits that the respondents/State of Chhattisgarh preferred a Special Leave Petition (Civil) No. 17122/2006 (State of Chhattisgarh & others Vs. Sant Kumar & others) before the Hon'ble Supreme Court, challenging the order dated 18.1.2006 (supra), passed by this Court and the same has been dismissed by the Hon'ble Supreme Court vide order dated 9.10.2006 after condoning the delay.

6. Learned counsel appearing for the parties jointly submit that this case is squarely covered by the judgment and order dated 18.1.2006 passed in the case of Sant Kumar & others (supra). Thus, the impugned order dated 4.10.1997 (Annexure P/4), is bad in law, being punitive in nature and passed without affording an opportunity of hearing to the concerned employees (petitioners) for putting forward their cases.

7. Accordingly the order dated 4.10.1997 (Annexure P/4) is quashed. The petitioners are entitled to regular pay scales from the date the same have been withdrawn by the impugned order. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Thakur